

PROPERTY TAX CONFIDENTIALITY

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title to address the confidentiality of information relating to property tax.

Highlighted Provisions:

This bill:

- ▶ modifies the circumstances under which commercial information shall or may not be disclosed;
- ▶ modifies the circumstances under which an individual who discloses commercial information is guilty of a class A misdemeanor;
- ▶ requires the commission to prepare a written explanation of the property tax confidentiality provisions and make that written explanation available to the public;
- ▶ requires an employer to provide the written explanation to certain persons who are reasonably likely to receive commercial information;
- ▶ requires a person who receives the written explanation to read and sign the written explanation;
- ▶ requires an employer to retain a signed written explanation for a specified time period;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-404, as last amended by Chapter 294, Laws of Utah 2004

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-1-404** is amended to read:

59-1-404. Definitions -- Confidentiality of commercial information obtained from a property taxpayer or derived from the commercial information -- Rulemaking authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of signed explanation by employer -- Penalty.

(1) As used in this section:

(a) (i) "commercial information" means:

(A) information of a commercial nature obtained from a property taxpayer regarding the property taxpayer's property; or

(B) information derived from the information described in this Subsection (1)(a)(i); and

(ii) (A) "commercial information" does not include information regarding a property taxpayer's property if the information is intended for public use; and

(B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for purposes of Subsection (1)(a)(ii)(A), the commission may by rule prescribe the circumstances under which information is intended for public use;

(b) "property taxpayer" means a person that:

(i) is a property owner; or

(ii) has in effect a contract with a property owner to:

(A) make filings on behalf of the property owner;

(B) process appeals on behalf of the property owner; or

(C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property; and

(c) "property taxpayer's property" means property with respect to which a property taxpayer:

- (i) owns the property;
- (ii) makes filings relating to the property;
- (iii) processes appeals relating to the property; or
- (iv) pays a tax under Chapter 2, Property Tax Act, on the property.

(2) Except as provided in Subsections (3) through (7), an individual listed under Subsection 59-1-403(1)(a) may not disclose commercial information:

(a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(1)(a) performs under Chapter 2, Property Tax Act; or

(b) relating to an action or proceeding:

(i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

(ii) that is filed in accordance with:

(A) this chapter[-];

(B) Chapter 2, Property Tax Act; or

(C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(b), an individual listed under Subsection 59-1-403(1)(a) may disclose the following information:

- (i) the assessed value of property;
- (ii) the tax rate imposed on property;
- (iii) a legal description of property;
- (iv) the physical description or characteristics of property, including a street address or parcel number for the property;
- (v) the square footage or acreage of property;
- (vi) the square footage of improvements on property;
- (vii) the name of a property taxpayer;
- (viii) the mailing address of a property taxpayer;

- (ix) the amount of a property tax:
 - (A) assessed on property;
 - (B) due on property;
 - (C) collected on property;
 - (D) abated on property; or
 - (E) deferred on property;
- (x) the amount of the following relating to property taxes due on property:
 - (A) interest;
 - (B) costs; or
 - (C) other charges;
- (xi) the tax status of property, including:
 - (A) an exemption;
 - (B) a property classification;
 - (C) a bankruptcy filing; or
 - (D) whether the property is the subject of an action or proceeding under this title;
- (xii) information relating to a tax sale of property; or
- (xiii) information relating to single-family residential property.

(b) (i) Subject to Subsection (3)(b)(ii), a person may receive the information described in Subsection (3)(a) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) in written format:

- (A) the commission;
- (B) a county;
- (C) a city; or
- (D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(1)(a) shall disclose commercial information:

- (i) in accordance with judicial order;

- (ii) on behalf of the commission in any action or proceeding:
 - (A) under this title;
 - (B) under another law under which a property taxpayer is required to disclose commercial information; or
 - (C) to which the commission is a party;
 - (iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or
 - (iv) if the requirements of Subsection (4)(b) are met, that is:
 - ~~[(A) directly involved in an action or proceeding involving property if that action or proceeding has been filed in accordance with this title;]~~
 - ~~[(B)]~~ (A) relevant to an action or proceeding:
 - (I) filed in accordance with this title; and
 - (II) involving property [if that action or proceeding has been filed in accordance with this title]; or
 - ~~[(C)]~~ (B) in preparation for an action or proceeding involving property ~~[if that action or proceeding has been filed in accordance with this title].~~
- (b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):
 - (i) if the commercial information is obtained from:
 - (A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;
 - (B) an appraiser if the appraiser is not a property taxpayer of the property that is the subject of the action or proceeding;
 - (C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or
 - (D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;
 - (ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and

(iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding [~~outside the action or proceeding~~] except as specifically allowed by this section;

(B) if the commission conducts the action or proceeding, the commission enters a protective order or, in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding [~~outside the action or proceeding~~] except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding [~~outside the action or proceeding~~] except as specifically allowed by this section.

(c) Notwithstanding Subsection (4)(a), a court may require the production of, and may admit in evidence, commercial information that is specifically pertinent to the action or proceeding.

(5) Notwithstanding Subsection (2), this section does not prohibit:

(a) the following from receiving a copy of any commercial information relating to the basis for assessing a tax that is charged to a property taxpayer:

- (i) the property taxpayer;
- (ii) a duly authorized representative of the property taxpayer;
- (iii) a person that has in effect a contract with the property taxpayer to:
 - (A) make filings on behalf of the property taxpayer;
 - (B) process appeals on behalf of the property taxpayer; or
 - (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;
- (iv) a property taxpayer that purchases property from another property taxpayer; or
- (v) a person that the property taxpayer designates in writing as being authorized to

receive the commercial information;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of a particular property taxpayer's commercial information; or

(c) the inspection by the attorney general or other legal representative of the state or a legal representative of a political subdivision of the state of the commercial information of a property taxpayer:

(i) that brings action to set aside or review a tax or property valuation based on the commercial information;

(ii) against which an action or proceeding is contemplated or has been instituted under this title; or

(iii) against which the state or a political subdivision of the state has an unsatisfied money judgment.

(6) Notwithstanding Subsection (2), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(1)(a) to disclose commercial information:

(a) (i) in a published decision; or

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(1)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(1)(a) may share commercial information with the following:

(i) another individual listed in Subsection 59-1-403(1)(a)(i) or (ii); or

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(1)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (8)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(1)(a) shall:

(i) provide the written explanation described in Subsection (8)(a)(i) to each person described in Subsection 59-1-403(1)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (8)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

(iii) retain each written explanation that is signed in accordance with Subsection (8)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (8)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (8)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

~~[(8)]~~ (9) (a) Any individual listed under Subsection 59-1-403(1)(a) [who violates this section] is guilty of a class A misdemeanor[;] if that person:

(i) intentionally discloses commercial information in violation of this section; and

(ii) knows that the disclosure described in Subsection (9)(a)(i) is prohibited by this section.

(b) If the individual described in Subsection [~~(8)~~] (9)(a) is an officer or employee of the state or a county and is convicted of violating this section, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.